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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,916	11/28/2001	Huub Van Aert	27500-14	1168

7590 07/15/2004

Joseph T. Guy Ph.D
Nexsen Pruet Jacobs & Pollard LLP
201 W. McBee Avenue
Greenville, SC 29603

EXAMINER

ZALUKAEVA, TATYANA

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/995,916	Applicant(s) AERT ET AL.	
	Examiner Tatyana Zalukaeva	Art Unit 1713	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☒ The proposed amendment(s) will not be entered because:

(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

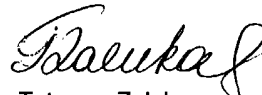
Claim(s) rejected: 3-5, 13, 16, 18 and 21-23.

Claim(s) withdrawn from consideration: 26, 30-35.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. ☐ Other: _____


Tatyana Zalukaeva
Primary Examiner
Art Unit: 1713

Continuation of 2. NOTE: The amendment sets forth much more precise and narrow limitation in terms of the range of surfactant concentrations, and thus requires at least new consideration and/or new search.

Continuation of 5. does NOT place the application in condition for allowance because: the new limitation of at least 0.05% by weight of a surfactant based on a monomer would require new supporting document, and because the request for reconsideration is partially based on the amendment that has not been entered. .

With regard to Applicants request for reinstatement of claims 26, 30-35, Applicants attention is drawn to MPEP, 818.02©

" 818.02(c) By Optional Cancellation of Claims

Where applicant is claiming two or more inventions (which may be species or various types of related inventions) and as a result of action on the claims, he or she cancels the claims to one or more of such inventions, leaving claims to one invention, and such claims are acted upon by the examiner, the claimed invention thus acted upon is elected." . This is the situation with Applicants species of cobalt complexes that were initially cancelled and only claim directed to dimers were acted upon.